

#3559

Sponsor:

Council
Member
Wright

Co-Sponsors:

Council
Members
Potter
Shabazz
Robinson**AN ORDINANCE TO AMEND CHAPTER 35 OF THE CITY CODE
REGARDING GOOD FAITH EFFORTS IN BIDDING.**

WHEREAS, the City Council has enacted the provisions of Chapter 35 of the City Code setting forth the requirements for the categories of goals regarding disadvantaged business enterprises ("DBE's"); and

WHEREAS, the City Council deems it necessary and proper to ensure that general contractors utilize the DBE subcontractors that they identify in their bid documents once they are awarded a bid.

THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Chapter 35 of the Wilmington City Code is hereby amended by amending Section 35-135 by adding thereto the underlined language to read as follows:

Sec. 35-135. Good Faith Efforts in bidding.

...

(d) Contractors are further required to make good faith efforts to replace any disadvantaged business enterprise ("DBE") that is terminated or has otherwise failed to complete its work on a contract. In such situations, the general contractor shall be required to notify the city's DBE office within 24 hours and provide reasonable documentation regarding any DBE's inability or unwillingness to perform the contracted work. The city's DBE office shall require the general contractor to obtain prior approval for the DBE that will be used as a substitute, and the general contractor must provide copies of new or amended subcontracts along with documentation of the good faith efforts made in acquiring the substitute DBE. This process must be completed within ten days. If the general contractor fails or refuses to comply, the city may issue a stop work order and halt all work and payments until satisfactory action is taken. In the event of continuing non-compliance or total non-compliance, the city, following receipt of advice from the city law department, may terminate the contract. Except as stated above, a general contractor, which does not utilize the DBE's for the services stated in its bid after the contract has been awarded, may be penalized in accordance with the provisions of Section 35-135 (e), and must immediately utilize the DBE's identified as subcontractors in its bid.

SECTION 3. Effective Date: This Ordinance shall become effective immediately.

First Reading.....August 18, 2011
Second Reading....August 18, 2011
Third Reading... Sept. 15, 2011

Passed by City Council, 9/15/11

Norman D. Giffitts
President of City Council

Approved as to form this
16th day of August, 2011

Mary Pineda
First Assistant City Solicitor

Attest: Maribel Ruiz
City Clerk

Approved this 19th day of

Sept, 2011

J. M. Baker
Mayor

SYNOPSIS: This Ordinance amends Chapter 35 of the City Code to require that general contractors utilize the DBE subcontractors identified in their bids or face possible penalties.